

No. PD-0262-20
No. PD-0263-20
IN THE COURT OF CRIMINAL APPEALS
OF TEXAS

FILED
COURT OF CRIMINAL APPEALS
4/28/2020
DEANA WILLIAMSON, CLERK

ANDREW TURLEY
Appellant

v.

THE STATE OF TEXAS
Appellee

On Petition for Discretionary Review
of Cause No. 14-18-00235-CR and Cause No. 14-18-00236-CR
In the Fourteenth Court of Appeals, Reversing Judgments
in Cause Numbers 1488216 and 1488217
From the 184th District Court of Harris County, Texas
Honorable Jan Krockner, Presiding

APPELLANT'S REPLY TO PETITION FOR DISCRETIONARY REVIEW

ALEXANDER BUNIN
Chief Public Defender
Harris County, Texas

CHERI DUNCAN
Assistant Public Defender
Texas Bar No. 06210500
1201 Franklin, 13th Floor
Houston, Texas 77002
Phone: (713) 368-0016
Fax: (713) 368-9278
cheri.duncan@pdo.hctx.net
Counsel for Appellant

IDENTITY OF PARTIES AND COUNSEL

APPELLANT:

Andrew Turley

TRIAL PROSECUTOR:

Johnna Stallings
Stewanna Miskell
Assistant District Attorneys
Harris County, Texas

DEFENSE COUNSEL AT TRIAL:

Ray Castro
Attorney at Law

PRESIDING JUDGE:

The Hon. Jan Krockner
184th District Court
Harris County, TX

COUNSEL ON APPEAL FOR APPELLANT:

Cheri Duncan
Assistant Public Defender
Harris County, TX

COUNSEL ON APPEAL FOR STATE:

Jessica Caird
Assistant District Attorney
Harris County, TX

TABLE OF CONTENTS

IDENTITY OF PARTIES AND COUNSEL.....	ii
TABLE OF CONTENTS.....	iii
INDEX OF AUTHORITIES	iv
STATEMENT REGARDING ORAL ARGUMENT.....	1
STATEMENT OF THE CASE	1
STATEMENT OF PROCEDURAL HISTORY	1
REPLIES TO GROUNDS FOR REVIEW	2
GROUND ONE, RESTATED.....	3
APPELLANT’S REPLY	3
GROUND TWO, RESTATED	7
APPELLANT’S REPLY	7
CONCLUSION	8
PRAYER	9
CERTIFICATE OF SERVICE	10
CERTIFICATE OF COMPLIANCE	10
APPENDIX A	11
APPENDIX B.	14

INDEX OF AUTHORITIES

Cases

<i>Davis v. State</i> , 635 S.W.2d 737, 739 (Tex. Crim. App. 1982).....	7, 8
<i>Turley v. State</i> , ___ S.W.3d ___, 2020 WL 1183159 (Tex. App. – Houston [14 th Dist.] Mar. 12, 2020, pet. filed)	1

Statutes

TEX. PENAL CODE § 20A.02(a)(7)(E),(H) (West 2011)	7
TEX. PENAL CODE § 22.021(f)(1) (West 2011)	9
TEX. PENAL CODE § 43.02(a)(1)-(2) (West 2011)	6
TEX. PENAL CODE § 43.05(a)(2) (West 2011).....	6
TEX. PENAL CODE §§ 22.011(f), 15.01(d) (West 2011).....	8

Rules

TEX. R. APP. PRO. 66.1	2
------------------------------	---

STATEMENT REGARDING ORAL ARGUMENT

There is no need for oral argument because there is no need for the Court to grant review.

STATEMENT OF THE CASE

A Harris County jury found Andrew James Turley guilty of the offenses of compelling prostitution and trafficking of a person on March 14, 2018 ('216 CR at 222) ('217 CR at 209).¹ Jurors also assessed punishment at 30 years in prison for each case. The judge ordered the sentences to run consecutively ('216 CR at 225) ('217 CR at 210). No motion for new trial was filed.

STATEMENT OF PROCEDURAL HISTORY

On March 12, 2020, the Fourteenth Court of Appeals issued a judgment that reversed the trial court in both cases, and rendered judgments of acquittal. A concurring justice agreed with the result but differed in the rationale for reversal. *Turley v. State*, __ S.W.3d __, 2020 WL 1183159 (Tex. App. – Houston [14th Dist.] Mar. 12, 2020, pet. filed). (See State's Appendices to Petition for Discretionary Review).

Neither party filed a motion for rehearing or review.

The very next day, March 13, 2020, the State filed two new charges against Mr. Turley – one arising from the same incident involved in this case, and one which arose

¹ The clerk's record in each case will be cited here as '216 CR and '217 CR, reflecting the separate trial court cause numbers. The cases were tried together, so the reporter's record covers both cases and will be cited by volume number: 2 RR at 106, etc.

from another incident allegedly involving sexual abuse of the same complainant. *See* Appendix A and Appendix B, attached. They were obtained from the Harris County District Clerk's website. Appellant asks the Court to take judicial notice of these public documents.

If the reversals at issue here become final, the two new complaints ensure that Appellant will not become a free man any time soon thereafter. He will face these – and perhaps other – serious charges, along with the possibility of decades in prison. There truly is no good reason for this Court to spend its limited time on this case.

Despite this, the State filed a petition for discretionary review on March 24, 2020.

REPLIES TO GROUNDS FOR REVIEW

The State does not challenge the court of appeals' judgment in Cause No. 14-18-00236-CR, which reversed Appellant's conviction for trafficking. Although its petition includes both appellate case numbers on the cover, the State's two grounds of review address only one – the compelling prostitution case. *See* State's Petition for Discretionary Review at p. 10. Nevertheless, Appellant will address both cases, in case the Court decides sua sponte to grant review of the trafficking offense. *See* TEX. R. APP. PRO. 66.1.

FIRST GROUND, RESTATED: Did the court of appeals err when it held as a matter of law that selling sexual contact with a four-year-old child could never constitute compelled prostitution?

APPELLANT’S REPLY: The undisputed evidence showed that complainant, S.E.B., was four years old, and had been drugged to sleep, at the time of this incident. The court of appeals was correct to reverse Appellant’s convictions due to the lack of evidence that S.E.B. committed prostitution.

A. Factual background

Mr. Turley was caught in a sting operation after he used Craigslist to offer his four-year-old daughter, S.E.B., for sexual conduct, using the caption, “Play with Daddy’s Little Girl” (4 RR at 35). Perhaps it should go without saying, but there was no evidence that S.E.B. knew anything about her father’s plan. This becomes relevant to the issue of whether she committed prostitution, as required to support Appellant’s conviction for compelling prostitution.

The evidence showed that after communicating via email and text with Houston Police Det. David Patterson, who was working undercover as “Jay Cannon,” Mr. Turley agreed to give “Jay” two hours with S.E.B. for \$1,000, as long as no vaginal penetration was involved (4 RR at 48).

On the day the transaction was supposed to occur, Mr. Turley gave S.E.B. over-the-counter medicine or medicines to make her fall asleep. Once he felt confident that she would not wake up, he texted Det. Patterson to come to the apartment. He took the detective into the child’s bedroom (4 RR at 97). She was asleep on the bed, wearing only a pajama top (4 RR at 99). Det. Patterson testified:

Q. Do you-all continue to text message throughout the evening?

A. Yes.

Q. At 7:59 p.m., on the 11th, what did [Appellant] text you -- or suspect text you?

A. "We can do probably 8:00 or 9:00. I will have to give my girl sleep meds in the morning so she naps."

Q. Based upon your training and experience, what did you suspect this person was referring to at this point?

A. That he was going give this child some type of medicine to make her go to sleep so she wouldn't remember the encounter.

Q. And does that match with the e-mail that was sent in State's Exhibit 31 on November 2nd, at 9:50: "So, you're okay with her sleeping, too?"

A. Yes.

Q. In other words, she would be given medicine -- or **the child would be given medicine to sleep and not know the sexual activity was going on?**

A. Yes, ma'am.

(4 RR at 66) (emphasis added).

After testifying about additional communications between himself and Appellant, Det. Patterson testified:

Q. Was the child covered or uncovered at that point?

A. She had a child's comforter that was covered, like she was sleeping. Her head was exposed and kind of laying on the side.

Q. Were her eyes open or closed?

A. At the time when I initially walked in, her eyes were closed.

Q. What happened when you approached the bed with the defendant?

A. The defendant told me to touch the child, and which point I leaned forward, touched her head, and stated: Oh, she is precious. How old is she?

...

A. At that point the child woke up, and I used that as an excuse to leave the room. I said: Hey, I don't want her to see me. She is waking up. I don't want her to see me.

At that point I made my way back down the hallway and to the front door. When I went to the front door, opened it, Officer Smith and Officer Garza came up; and they effected the arrest. The defendant followed me out, and we effected the arrest right about here (indicating.)

(4 RR at 99).

B. At the time of this incident, the compelling prostitution statute required the State to prove S.E.B. committed prostitution.

No evidence and no reasonable inferences from any evidence at trial showed that: 1) in return for receipt of a fee, S.E.B. knowingly offered to engage, agreed to engage, or engaged in sexual conduct; or 2) S.E.B. knowingly solicited anyone in a public place to engage with her in sexual conduct for hire; or 3) either S.E.B. or Appellant paid a fee to another person, and S.E.B. offered to engage, agreed to engage, or engaged in sexual conduct; or (4) S.E.B. solicited someone in a public place to engage with her in sexual conduct for hire.

To convict Appellant of compelling prostitution, the State had to prove S.E.B. committed prostitution. There was **no** evidence that she did. Further, the State's evidence actually provide that she did **not** participate knowingly in any sexual conduct.

In 2015, when this incident occurred, the compelling prostitution statute said, in pertinent part:

(a) A person commits an offense if the person knowingly:

...

(2) **causes** by any means **a child** younger than 18 years **to commit prostitution**, regardless of whether the actor knows the age of the child at the time the actor commits the offense.

TEX. PENAL CODE § 43.05(a)(2) (West 2011). By its plain language, the statute made the commission of prostitution by the child an element of the offense. During the same time period, “to commit prostitution” meant:

- To knowingly offer to engage, agree to engage, or to engage in sexual conduct for a fee; or
- To knowingly solicit another in a public place to engage with the person in sexual conduct for hire.

TEX. PENAL CODE § 43.02(a)(1)-(2) (West 2011).

The State had zero evidence – unsurprisingly – that the four-year-old S.E.B. made a single offer or agreement to engage in sexual conduct, or that she actually engaged in sexual conduct, for a fee. Further, the State had zero evidence that this toddler solicited anyone in a public place to engaged in sexual conduct for hire.

The State’s own witness, Det. Patterson, testified that Appellant intended to drug S.E.B. so she would sleep and not know what was happening (4 RR at 99, quoted above). Nothing in his testimony, or that of any other witnesses who participated in

Appellant's arrest, suggested in any way that S.E.B. knew what was happening, or knew anything about her father's plans.

The court of appeals, then, was correct to conclude that the evidence was legally insufficient to convict Appellant of compelling the prostitution of S.E.B.

C. For the same reasons, the court of appeals was correct to hold that the evidence was legally insufficient to convict Appellant of trafficking S.E.B.

Similarly, the trafficking statute requires the complainant to have committed prostitution: "A person commits an offense if the person knowingly: traffics a child and by any means causes the trafficked child to engage in, or become the victim of, conduct prohibited by [the prostitution statute or the compelling prostitution statute]." TEX. PENAL CODE § 20A.02(a)(7)(E),(H) (West 2011).

SECOND GROUND, RESTATED: Must a child knowingly engage in an act of prostitution for the person who sold sex with her to be guilty of compelling prostitution?

APPELLANT'S REPLY: The State assumes that the *actus reus* for the offense of prostitution is sexual conduct. The statute's plain language says otherwise.

One sentence from the Court of Criminal Appeals' 1982 opinion in *Davis v. State* has become – incorrectly – axiomatic in compelling prostitution cases: "The actual commission of the offense of prostitution is not a prerequisite [sic] to the commission of the offense of compelling prostitution." *Davis v. State*, 635 S.W.2d 737, 739 (Tex. Crim. App. 1982). The problem with this quote is that *Davis* was not a compelling prostitution case; it was an **attempted** compelling prostitution case. The oft-cited sentence above

was dicta in a discussion of whether the indictment needed to set out the elements of the offense of prostitution:

[Appellant] was indicted for attempting to compel prostitution. Thus, only the elements of that offense, attempting to compel prostitution need be set out in the indictment. There is no need to set out the elements of prostitution. The actual commission of the offense of prostitution is not a prerequisite [sic] to the commission of the offense of compelling prostitution.

Id. In a case involving mere attempt, obviously, actual commission of prostitution is not required. If the complainant *had* committed prostitution, then the defendant would have been indicted for compelling, not for attempted compelling.

Here, Appellant was charged with a completed offense. Therefore, the State was required to prove beyond a reasonable doubt that S.E.B. knowingly committed some act of prostitution. Because the State offered no evidence of such an act, the evidence was insufficient. The court of appeals' judgments should not be disturbed.

CONCLUSION

Even with acquittals for the two offenses involved in this petition, the Harris County criminal justice system is far from done with him. As discussed above, the State already has two charges pending against him, copies of which are attached to this reply.

Appendix A is a complaint that charges Appellant with attempted sexual assault of a child in connection with the incident at issue in this case, a second-degree felony. *See* TEX. PENAL CODE §§ 22.011(f), 15.01(d) (West 2011). Appendix B is a complaint charging him with aggravated sexual assault of a child in connection with his own

conduct in a different incident involving S.E.B. The latter offense is a first-degree felony that carries a minimum prison term of 25 years. *See* TEX. PENAL CODE § 22.021(f)(1) (West 2011).

There is no need for this Court to grant the State's petition. The court of appeals was correct to reverse both convictions. The State will get its opportunity to try Appellant for offenses that are correctly charged, unlike the offenses here. The Court should not undertake discretionary review of this case.

PRAYER

Appellant respectfully requests this Court to deny the State's Petition for Discretionary Review.

ALEXANDER BUNIN
Chief Public Defender
Harris County Texas

/s/ Cheri Duncan

CHERI DUNCAN
Assistant Public Defender
Texas Bar No. 06210500
1201 Franklin, 13th floor
Houston Texas 77002
(713) 274-0016 telephone
(713) 437-4318 e-fax
cheri.duncan@pdo.hctx.net

CERTIFICATE OF SERVICE

I certify that a copy of this reply was served electronically on the Harris County District Attorney's Office and the State Prosecuting Attorney on April 27, 2020.

/s/ Cheri Duncan

CHERI DUNCAN

CERTIFICATE OF COMPLIANCE

I certify that this reply complies with Rule 9.2, TEX. R. APP. PROC. It was prepared on a computer using 14-point Garamond type. Counted according to Rule 9.2, it contains 2,074 words.

/s/ Cheri Duncan

CHERI DUNCAN

Appendix A

THE STATE OF TEXAS
VS.
ANDREW JAMES TURLEY
2020 BENTWORTH DR
HOUSTON, TX 77077

02821599

SPN: **02821599**
DOB: **W M 06/24/1987**
DATE PREPARED: **3/13/2020**

D.A. LOG NUMBER: **2625993**
CJIS TRACKING NO.:
BY: **GC DA NO: 1576627**
AGENCY: **HPD**
O/R NO: **034945020**
ARREST DATE: **TO BE**

FILED
Marilyn Burgess
District Clerk

MAR 13 2020

Time: **8:04**
By: **[Signature]**
Harris County, Texas
Deputy

NCIC CODE: **110096**

RELATED CASES: **SD- 2F**

FELONY CHARGE: **ATTEMPTED AGGRAVATED SEXUAL ASSAULT OF A CHILD**

CAUSE NO:
HARRIS COUNTY DISTRICT COURT NO:
FIRST SETTING DATE:

1668137
228

COURT ORDERED BAIL: **TO BE SET AT**
MAGISTRATION
PRIOR CAUSE NO:
CHARGE SEQ NUM:

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, **ANDREW JAMES TURLEY**, hereafter styled the Defendant, heretofore on or about **November 12, 2015**, did then and there unlawfully, intentionally, with the specific intent to commit the offense of Aggravated Sexual Assault of a Child of S.E.B., hereafter styled the Complainant, do an act, to-wit: by offering S.E.B.'s for sexual contact in exchange for money, by agreeing that another person, namely D.P., would lick S.E.B.'s sexual organ with D.P.'s tongue and providing S.E.B. to D.P. while D.P. was nude and under the influence of an unknown drug, which amounted to more than mere preparation that tended to but failed to effect the commission of the offense intended.

PROBABLE CAUSE:

AGGRAVATED SEXUAL ASSAULT OF A CHILD AND ATTEMPTED AGGRAVATED SEXUAL ASSAULT OF A CHILD: NOVEMBER 2, 2015, AT APPROXIMATELY 2115 HRS, DETECTIVE DJ PATTERSON, AFFIANT, WAS ASSIGNED TO THE HOUSTON POLICE VICE DIVISION OBSERVED AN ADVERTISEMENT ON THE INTERNET WEBSITE CRAIGSLIST.ORG UNDER THE CASUAL ENCOUNTERS/MW4M SECTION. THE ADVERTISEMENT WAS HEADED "PLAY WITH DADDIES LITTLE GIRL - MW4M". YOUR AFFIANT EMAILED THE ADVERTISEMENT AND BEGAN TO EMAIL A PERSON BACK AND FORTH IN REGARDS TO SEEING "DADDIES GIRL".

BETWEEN 11-02-2015 AND 11-12-2015 69 EMAILS WERE EXCHANGED. IN THESE EMAILS THE SENDER STATED THAT HE HAD A "YOUNG GIRL", "YOUNGER THAN 10". THE SENDER ASKED IF THE AFFIANT WAS "GENEROUS" (SLANG FOR PAYING MONEY). AFFIANT EMAILED, "YES" AND STATED AFFIANT COULD PAY "\$1,000.00 FOR 2 HOURS". THE SENDER EMAILED AFFIANT ON 11-3-2015 "WHAT IF SHE IS TOO TIGHT FOR YOU TO FIT IN HER? WOULD YOU BE OK WITH JUST LICKING TOUCHING ALL THAT?" ON 11-5-2015 THE SENDER EMAILED AFFIANT "YOU MIGHT NOT BE ABLE TO STICK IT IN HER, SHE MIGHT BE TOO TIGHT. BUT EVERYTHING ELSE IS OK." AFFIANT EMAILED BACK "I WON'T HURT HER, JUST WANT TO LICK." ON 11-11-2015 SENDER EMAILED PICTURES OF A SMALL CHILD TO AFFIANT INDICATING THIS WAS THE CHILD THAT HE WOULD BE ENGAGING IN SEXUAL ACTIVITY WITH. AFFIANT COMPARED PICS TO S.E.B. AND BELIEVES THAT THE PICTURES ARE OF S.E.B.

ON 11-11-2015 AFFIANT BEGAN TO TEXT THE SENDER OF THE EMAILS AT PHONE NUMBER "520-337-1477". AFFIANT AND SENDER MADE AN INITIAL MEETING TIME FOR 11-11-2015. SENDER TEXTED AFFIANT THAT HE WAS GOING TO GIVE HER "SLEEP MEDS" TO GET HER TO SLEEP.

ON 11-11-2015 SENDER TEXTED AFFIANT AND STATED THAT HE HAD PLANNED TO "PLAY" WITH S.E.B. TOO.

ON 11-12-2015 AFFIANT RECEIVED A TEXT READING THAT SENDER WAS WORRIED THAT THE MOM WOULD COME HOME FROM WORK DURING LUNCH AND "WALK IN WHEN YOUR TUNGING HER".

ON 11-12-2015 AT 0905 HRS AFFIANT RECEIVED A TEXT TO GO TO APARTMENTS LOCATED AT 2020 BENTWORTH DR, LOCATED INSIDE THE INCORPORATED CITY LIMITS OF HOUSTON, HARRIS COUNTY, TEXAS. AFFIANT WAS INSTRUCTED BY TEXT TO PARK IN THE REAR TO THE LEFT BY THE LAST BUILDING AND TO "SHOW" THE MONEY AND A "WORK ID". AFFIANT PARKED AND A WHITE MALE, LATER IDENTIFIED AND REFERRED TO AS DEFENDANT ANDREW JAMES TURLEY, EXITED APARTMENT #331. DEFENDANT TURLEY APPROACHED YOUR AFFIANT'S

1668137
#228

UNDERCOVER VEHICLE AND AFFIANT SHOWED HIM A WORK ID AND \$1,000.00 (10 ONE HUNDRED DOLLAR BILLS). THE AFFIANT AND DEFENDANT TURLEY THEN WALKED INSIDE APARTMENT #331. ONCE INSIDE THE APARTMENT DEFENDANT TURLEY STATED, "JUST LICK AND TOUCH", (SLANG FOR ORAL SEX AND SEXUAL CONTACT.) DEFENDANT TURLEY WALKED AFFIANT TO A SIDE BEDROOM AND LYING IN A SMALL BED WAS A 4 YEAR OLD GIRL, IDENTIFIED AS S.E.B. THE JUVENILE APPEARED TO BE GROGGY AND UNDER THE INFLUENCE OF AN UNKNOWN SUBSTANCE. S.E.B. WAS IN AND OUT OF SLEEP. DEFENDANT TURLEY AGAIN STATED "YOU JUST WANT TO LICK AND TOUCH RIGHT?" AND AFFIANT RESPONDED "YES". DEFENDANT TURLEY THEN PARTIALLY REMOVED A BLANKET AND EXPOSED THE CHILD'S (S.E.B.) BARE BUTTOCKS AND TOLD AFFIANT TO TOUCH HER. AT THAT POINT DEFENDANT TURLEY WAS ARRESTED WITHOUT INCIDENT. IT WAS FOUND THAT S.E.B. LIVED AT THE APARTMENT AND DEFENDANT TURLEY IS S.E.B.'S FATHER.

DETECTIVE M. JONES TOLD, HOUSTON POLICE DEPARTMENT VICE DIVISION, AFFIANT WHILE S.E.B. SAT ON TOILET TO URINATE SHE STATED "DADDY IS NOT SUPPOSED TO TOUCH MY SPECIAL PLACE." S.E.B. WAS TAKEN TO TEXAS CHILDREN'S HOSPITAL AND DURING THE RIDE TOLD DETECTIVE JONES AGAIN, "DADDY IS NOT SUPPOSED TO TOUCH ME". DETECTIVE JONES TOLD AFFIANT THAT S.E.B. COMPLAINED WHILE USING THE RESTROOM AT THE HOSPITAL OF PAIN TO VAGINAL AREA. AFFIANT REVIEWED TCH MEDICAL RECORDS OF SAME EXAMINATION OF S.E.B. FINDING NURSE RODGERS NOTED REDNESS ALONG LEFT SIDE OF LABIA MAJORA AND ON LABIAN MINORA TENDER RED LINEAR MARK FROM PERHYMENAL AREA AT 3 O'CLOCK EXTENDING TO LABIA MINORA AT 2 O'CLOCK. AFFIANT REVIEWED ALL EMAILS SENT BY DEFENDANT TURLEY AND RETRIEVED FROM DEFENDANT TURLEY'S PHONE. AFTER ANALYSIS OF DEFENDANT TURLEY'S PHONE, AFFIANT FOUND THAT DEFENDANT TURLEY ADMITTED TO OTHER POTENTIAL BUYERS VIA EMAIL THAT DEFENDANT TURLEY HAD SEXUALLY ABUSED S.E.B. PREVIOUSLY. DEFENDANT TURLEY STATED "SHE TASTED AMAZING" AND PROVIDED S.E.B. TO A FRIEND. DEFENDANT TURLEY SAID HE WOULD "FUCK" S.E.B. AND WATCH S.E.B. BE MOLESTED WHEN SETTING UP THE DATE.

AFFIANT BELIEVES BASED UPON S.E.B. STATEMENTS TO DETECTIVE JONES, NURSE RODGER'S MEDICAL FINDINGS CONSISTENT WITH PENETRATION, DEFENDANT TURLEY'S INTENT TO PROVIDE S.E.B. FOR SEXUAL PURPOSES UPON PAYMENT, DEFENDANT TURLEY'S STATEMENTS THAT HE "WOULD PLAY" WITH S.E.B. TO AFFIANT AND DEFENDANT TURLEY'S STATEMENTS TO OTHER POTENTIAL SEX OFFENDERS, AND THAT DEFENDANT TURLEY HAD S.E.B. NUDE AND DRUGGED WHEN AFFIANT ENTERED DEFENDANT TURLEY'S APARTMENT THAT DEFENDANT TURLEY DID TOUCH AND PENETRATE S.E.B'S VAGINA WITH HIS FINGERS.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Sworn to and subscribed before me on March 13, 2020

AFFIANT

ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS

Bar No. 22073247

COMPLAINT

Pend #228

p3

THE STATE OF TEXAS
VS.
ANDREW JAMES TURLEY
2020 BENTWORTH DR
HOUSTON, TX 77077

02821599

SPN: **02821599**
DOB: **W M 06/24/1987**
DATE PREPARED: **3/13/2020**

D.A. LOG NUMBER: **2625993**
CJIS TRACKING NO.:
BY: **GC DA NO: 1576627**
AGENCY: **HPD**
O/R NO: **034945020**
ARREST DATE: **TO BE**

FILED
Marilyn Burgess
District Clerk

MAR 13 2020

Time: **1:50**
By: **[Signature]**
Harris County, Texas

NCIC CODE: **1115 38**RELATED CASES: **SD- 2F**FELONY CHARGE: **Super-Aggravated Sexual Assault of a Child Under Six Years of Age**

CAUSE NO:
HARRIS COUNTY DISTRICT COURT NO:
FIRST SETTING DATE:

1668138
228

COURT ORDERED BAIL: **TO BE SET AT**
MAGISTRATION
PRIOR CAUSE NO:
CHARGE SEQ NUM:

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, **ANDREW JAMES TURLEY**, hereafter styled the Defendant, heretofore on or about **November 12, 2015**, did then and there unlawfully, intentionally and knowingly cause the penetration of the sexual organ of S.E.B., a child younger than six years of age, hereafter styled the Complainant to contact the anus of the Defendant.

PROBABLE CAUSE:

AGGRAVATED SEXUAL ASSAULT OF A CHILD AND ATTEMPTED AGGRAVATED SEXUAL ASSAULT OF A CHILD: NOVEMBER 2, 2015, AT APPROXIMATELY 2115 HRS, DETECTIVE DJ PATTERSON, AFFIANT, WAS ASSIGNED TO THE HOUSTON POLICE VICE DIVISION OBSERVED AN ADVERTISEMENT ON THE INTERNET WEBSITE CRAIGSLIST.ORG UNDER THE CASUAL ENCOUNTERS/MW4M SECTION. THE ADVERTISEMENT WAS HEADED "PLAY WITH DADDIES LITTLE GIRL - MW4M". YOUR AFFIANT EMAILED THE ADVERTISEMENT AND BEGAN TO EMAIL A PERSON BACK AND FORTH IN REGARDS TO SEEING "DADDIES GIRL".

BETWEEN 11-02-2015 AND 11-12-2015 69 EMAILS WERE EXCHANGED. IN THESE EMAILS THE SENDER STATED THAT HE HAD A "YOUNG GIRL", "YOUNGER THAN 10". THE SENDER ASKED IF THE AFFIANT WAS "GENEROUS" (SLANG FOR PAYING MONEY). AFFIANT EMAILED, "YES" AND STATED AFFIANT COULD PAY "\$1,000.00 FOR 2 HOURS". THE SENDER EMAILED AFFIANT ON 11-3-2015 "WHAT IF SHE IS TOO TIGHT FOR YOU TO FIT IN HER? WOULD YOU BE OK WITH JUST LICKING TOUCHING ALL THAT?" ON 11-5-2015 THE SENDER EMAILED AFFIANT "YOU MIGHT NOT BE ABLE TO STICK IT IN HER, SHE MIGHT BE TOO TIGHT. BUT EVERYTHING ELSE IS OK." AFFIANT EMAILED BACK "I WON'T HURT HER, JUST WANT TO LICK." ON 11-11-2015 SENDER EMAILED PICTURES OF A SMALL CHILD TO AFFIANT INDICATING THIS WAS THE CHILD THAT HE WOULD BE ENGAGNING IN SEXUAL ACTIVITY WITH. AFFIANT COMPARED PICS TO S.E.B. AND BELIEVES THAT THE PICTURES ARE OF S.E.B. ON 11-11-2015 AFFIANT BEGAN TO TEXT THE SENDER OF THE EMAILS AT PHONE NUMBER "520-337-1477". AFFIANT AND SENDER MADE AN INITIAL MEETING TIME FOR 11-11-2015. SENDER TEXTED AFFIANT THAT HE WAS GOING TO GIVE HER "SLEEP MEDS" TO GET HER TO SLEEP.

ON 11-11-2015 SENDER TEXTED AFFIANT AND STATED THAT HE HAD PLANNED TO "PLAY" WITH S.E.B. TOO. ON 11-12-2015 AFFIANT RECEIVED A TEXT READING THAT SENDER WAS WORRIED THAT THE MOM WOULD COME HOME FROM WORK DURING LUNCH AND "WALK IN WHEN YOUR TUNGING HER".

ON 11-12-2015 AT 0905 HRS AFFIANT RECEIVED A TEXT TO GO TO APARTMENTS LOCATED AT 2020 BENTWORTH DR, LOCATED INSIDE THE INCORPORATED CITY LIMITS OF HOUSTON, HARRIS COUNTY, TEXAS. AFFIANT WAS INSTRUCTED BY TEXT TO PARK IN THE REAR TO THE LEFT BY THE LAST BUILDING AND TO "SHOW" THE MONEY AND A "WORK ID". AFFIANT PARKED AND A WHITE MALE, LATER IDENTIFIED AND REFERRED TO AS DEFENDANT ANDREW JAMES TURLEY, EXITED APARTMENT #331. DEFENDANT TURLEY APPROACHED YOUR AFFIANT'S UNDERCOVER VEHICLE AND AFFIANT SHOWED HIM A WORK ID AND \$1,000.00 (10 ONE HUNDRED DOLLAR BILLS). THE AFFIANT AND DEFENDANT TURLEY THEN WALKED INSIDE APARTMENT #331. ONCE INSIDE THE APARTMENT DEFENDANT TURLEY STATED, "JUST LICK AND TOUCH", (SLANG FOR ORAL SEX AND SEXUAL CONTACT.)

1668138 #228

DEFENDANT TURLEY WALKED AFFIANT TO A SIDE BEDROOM AND LYING IN A SMALL BED WAS A 4 YEAR OLD GIRL, IDENTIFIED AS S.E.B. THE JUVENILE APPEARED TO BE GROGGY AND UNDER THE INFLUENCE OF AN UNKNOWN SUBSTANCE. S.E.B. WAS IN AND OUT OF SLEEP. DEFENDANT TURLEY AGAIN STATED "YOU JUST WANT TO LICK AND TOUCH RIGHT?" AND AFFIANT RESPONDED "YES". DEFENDANT TURLEY THEN PARTIALLY REMOVED A BLANKET AND EXPOSED THE CHILD'S (S.E.B.) BARE BUTTOCKS AND TOLD AFFIANT TO TOUCH HER. AT THAT POINT DEFENDANT TURLEY WAS ARRESTED WITHOUT INCIDENT. IT WAS FOUND THAT S.E.B. LIVED AT THE APARTMENT AND DEFENDANT TURLEY IS S.E.B.'S FATHER.

DETECTIVE M. JONES TOLD, HOUSTON POLICE DEPARTMENT VICE DIVISION, AFFIANT WHILE S.E.B. SAT ON TOILET TO URINATE SHE STATED "DADDY IS NOT SUPPOSED TO TOUCH MY SPECIAL PLACE." S.E.B. WAS TAKEN TO TEXAS CHILDREN'S HOSPITAL AND DURING THE RIDE TOLD DETECTIVE JONES AGAIN, "DADDY IS NOT SUPPOSED TO TOUCH ME". DETECTIVE JONES TOLD AFFIANT THAT S.E.B. COMPLAINED WHILE USING THE RESTROOM AT THE HOSPITAL OF PAIN TO VAGINAL AREA. AFFIANT REVIEWED TCH MEDICAL RECORDS OF SANE EXAMINATION OF S.E.B. FINDING NURSE RODGERS NOTED REDNESS ALONG LEFT SIDE OF LABIA MAJORA AND ON LABIA MINORA TENDER RED LINEAR MARK FROM PERHYMENAL AREA AT 3 O'CLOCK EXTENDING TO LABIA MINORA AT 2 O'CLOCK. AFFIANT REVIEWED ALL EMAILS SENT BY DEFENDANT TURLEY AND RETRIEVED FROM DEFENDANT TURLEY'S PHONE. AFTER ANALYSIS OF DEFENDANT TURLEY'S PHONE, AFFIANT FOUND THAT DEFENDANT TURLEY ADMITTED TO OTHER POTENTIAL BUYERS VIA EMAIL THAT DEFENDANT TURLEY HAD SEXUALLY ABUSED S.E.B. PREVIOUSLY. DEFENDANT TURLEY STATED "SHE TASTED AMAZING" AND PROVIDED S.E.B. TO A FRIEND. DEFENDANT TURLEY SAID HE WOULD "FUCK" S.E.B. AND WATCH S.E.B. BE MOLESTED WHEN SETTING UP THE DATE.

AFFIANT BELIEVES BASED UPON S.E.B. STATEMENTS TO DETECTIVE JONES, NURSE RODGER'S MEDICAL FINDINGS CONSISTENT WITH PENETRATION, DEFENDANT TURLEY'S INTENT TO PROVIDE S.E.B. FOR SEXUAL PURPOSES UPON PAYMENT, DEFENDANT TURLEY'S STATEMENTS THAT HE "WOULD PLAY" WITH S.E.B. TO AFFIANT AND DEFENDANT TURLEY'S STATEMENTS TO OTHER POTENTIAL SEX OFFENDERS, AND THAT DEFENDANT TURLEY HAD S.E.B. NUDE AND DRUGGED WHEN AFFIANT ENTERED DEFENDANT TURLEY'S APARTMENT THAT DEFENDANT TURLEY DID TOUCH AND PENETRATE S.E.B'S VAGINA WITH HIS FINGERS.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Sworn to and subscribed before me on March 13, 2020

AFFIANT

ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS
Bar No. 29073207

COMPLAINT

11448138 4778

1. DEPENDANT TURELY WAS ARRESTED WITHOUT INCIDENT. IT WAS FOUND THAT 228 LIVED AT THE APARTMENT AT THIS POINT.

2. DEPENDANT TURELY WAS ARRESTED WITHOUT INCIDENT. IT WAS FOUND THAT 228 LIVED AT THE APARTMENT AT THIS POINT.

3. DEPENDANT TURELY WAS ARRESTED WITHOUT INCIDENT. IT WAS FOUND THAT 228 LIVED AT THE APARTMENT AT THIS POINT.

4. DEPENDANT TURELY WAS ARRESTED WITHOUT INCIDENT. IT WAS FOUND THAT 228 LIVED AT THE APARTMENT AT THIS POINT.

5. DEPENDANT TURELY WAS ARRESTED WITHOUT INCIDENT. IT WAS FOUND THAT 228 LIVED AT THE APARTMENT AT THIS POINT.

6. DEPENDANT TURELY WAS ARRESTED WITHOUT INCIDENT. IT WAS FOUND THAT 228 LIVED AT THE APARTMENT AT THIS POINT.

Unofficial Copy Office of Marilyn Burgess District Clerk

COPY OF COMPLAINT WARRANT DELIVERED TO
Officer's name: ADD
Police agency: Houston PD
Phone no: _____ date/time: 3.13.2020

1815



ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY TEXAS
Bar No. 39072527

COMPLAINT

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Cheri Duncan
Bar No. 06210500
cheri.duncan@pdo.hctx.net
Envelope ID: 42588571
Status as of 04/28/2020 09:37:52 AM -05:00

Associated Case Party: AndrewJamesTurley

Name	BarNumber	Email	TimestampSubmitted	Status
Cheri Duncan		cheri.duncan@pdo.hctx.net	4/27/2020 11:35:12 PM	SENT

Associated Case Party: State of Texas

Name	BarNumber	Email	TimestampSubmitted	Status
Jessica Caird		caird_jessica@dao.hctx.net	4/27/2020 11:35:12 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Cheri Duncan		cheri.duncan@pdo.hctx.net	4/27/2020 11:35:12 PM	SENT
Stacey M.Soule		Stacey.Soule@SPA.texas.gov	4/27/2020 11:35:12 PM	SENT